

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**LUIS NIEVES,**

**Plaintiff**

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**No. 3:19cv507**

**(Judge Munley)**

**v.**

**MARK CAPOZA, et al.,**

**Defendants**

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**ORDER**

**AND NOW**, to wit, this 28<sup>th</sup> day of October 2019, we have before us for disposition Magistrate Judge William Arbuckle's report and recommendation ("R&R") (Doc. 46), which proposes that the plaintiff Luis Nieves' second amended complaint (Doc. 42) be dismissed.

On October 21, 2019, the plaintiff filed a handwritten letter with the court that is illegible in part. (Doc. 47). Liberally construing the legible portions of the letter, we conclude that the plaintiff filed this letter with the intent of filing objections to Judge Arbuckle's R&R.

In disposing of objections to a magistrate judge's report and recommendation, the district court must make a *de novo* determination of those portions of the report against which objections are made. 28 U.S.C. § 636(b)(1)(c); see also Sullivan v. Cuyler, 723 F.2d 1077, 1085 (3d Cir. 1983). The court may accept, reject, or modify, in whole or in part, the findings or

recommendations made by the magistrate judge. Henderson v. Carlson, 812 F.2d 874, 877 (3d Cir. 1987). The district court judge may also receive further evidence or recommit the matter to the magistrate judge with instructions. Id.

After a careful review of the plaintiff's objections (Doc. 47), we find no specific objection to any portion of Judge Arbuckle's R&R. As 28 U.S.C. § 636(b)(1) requires both timely and specific objections to an R&R, Goney v. Clark, 749 F.2d 5, 6 (3d Cir. 1984), it is hereby **ORDERED** as follows:

- 1) The magistrate judge's report and recommendation (Doc. 46) is **ADOPTED**;
- 2) The plaintiff's objections (Doc. 47) are **OVERRULED**;
- 3) The plaintiff's second amended complaint (Doc. 42) is **DISMISSED WITHOUT PREJUDICE**; and
- 4) The Clerk of Court is directed to **CLOSE** this case.

BY THE COURT:



JUDGE JAMES M. MUNLEY  
United States District Court